IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

**APPEAL FROM ORDER NO.48 OF 1999**
IN
NOTICE OF MOTION NO.2611 OF 1993
IN
S.C. SUIT NO.3081 OF 1993

B.K. Juvekar
since deceased, Surekha Suresh
Juvekar, residing at Hansali Tank
Road of Ram Maruti Road, Dadar,
Mumbai - 28 ... Appellant

V/s.

1. Smt.Shubhada P. Juvekar
2. Ketan P. Juvekar
3. Gandhar P. Juvekar
4. Deepa Ketan Juvekar
all having their address at
Suresh, Hansali Tank Road
Off: Ram Maruti Road, Dadar
Bombay - 28 ... Respondents

Mr.S.M. Kamble for Appellant
Mr.P.G. Lad for Respondent Nos.1 to 4

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 19, 2004**

**ORAL JUDGMENT:**

. The Appeal from Order has been filed against an order passed in the Notice of Motion on 25.8.1998. By this Notice of Motion, the appellant who is the original plaintiff's daughter-in-law was directed not to close the collapsible gate which divides the kitchen into two parts, one of which is used as a kitchen and the other part as prayer room. The trial Court had also directed

that the refrigerator should remain in the same place as it was on the date of the order and was not to be removed to any other position in the suit premises. The trial Court had also restrained the defendants, that is, respondents herein, from carrying out any construction of whatsoever nature on the terrace of the suit building. While directing this order to continue till the disposal of the suit, the trial Court observed that the parties would have liberty to apply for modification depending on the probate proceedings which were initiated after the death of the original plaintiff. The parties were also given liberty to apply to the Court in case the repairs were to be carried out to the terrace.

2. Having heard the advocates for the parties, I find that the principal reason why the appellant seeks to close the collapsible gate separating the kitchen and the prayer room appears to be that she apprehends that her belongings in the prayer room would be stolen by outsiders. The respondents are permitted access into that portion of the room by the Trial Court throughout and therefore the collapsible door is required to be kept open. In my view, this apprehension can be taken care of by allowing the parties to close the collapsible gate between the kitchen and the prayer room and locking it. The keys to the lock shall be kept with each of the

parties i.e., one with the appellant and the other i.e., a duplicate key with the Respondents. However, this arrangement will be without prejudice to the rights of the parties to the suit or any probate/testamentary proceedings which may have been initiated as a consequence of the death of the original plaintiff. The appellant submits that the refrigerator shall remain in the same place except that according to her, the wiring of the refrigerator needs to be altered. The wiring of the refrigerator may accordingly be altered, however, it shall continue to remain in the same position.

3. No further orders are required in this Appeal from Order. Appeal from Order is disposed of in the terms aforesaid. However, since the suit is of the year 1993, the suit is expedited.